

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 09/765,965

Filed: January 19, 2001

Inventor(s): Hensgen, et al.

Title: SYSTEM AND METHOD FOR
PROVIDING MULTI-
PERSPECTIVE INSTANT
REPLAY

Examiner: Shang, Annan Q.

Group/Art Unit: 2623

Atty. Dkt. No: 5266-05200

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April 1, 2008

Date

PRE-APPEAL BRIEF REQUEST FOR REVIEW

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Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Dear Sir:

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a Notice of Appeal. The review is requested for the reason(s) stated below.

Applicant is in receipt of the Final Office Action mailed November 1, 2007. Claims 1-5, and 7-56 remain pending in the application. Reconsideration of the present case is earnestly requested in light of the following remarks.

Claims 1, 15, 20, 31 and 45 are rejected under 35 U.S.C. § 112; claims 1-22 and 25-56 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,144,375 (hereinafter "Jain"); and claims 23-24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Jain in view of U.S. Patent No. 6,289,165 (hereinafter "Abecassis"). The following clear errors in the Examiner's rejection are noted.

In the Final Office Action, claims 1, 15, 20, 31 and 45 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. Specifically, the Examiner states:

"The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In particular, the specification does not disclose that "...periodically storing broadcast meta-data corresponding to each one or more of the received plurality of perspectives of the program..." It is unclear as to where support is found for the amended claim limitations."

Applicant disagrees and submits the claims do comply with 35 U.S.C. § 112. First, the highlighted features were recited in original claims 6, 16, 25, 36 and 47, which form part of the original specification. Second, FIG. 11

of the Specification and pages 26-29 of the Specification support the features recited by present independent claims 1, 15, 20, 31 and 45. Accordingly, Applicant submits claims 1, 15, 20 and 31 comply with 35 U.S.C. § 112, and withdrawal of the rejections is respectfully requested.

As noted above, claims 1-22 and 25-56 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Jain. However, Applicant submits each of the pending claims recite features not disclosed by the cited art.

For example, claim 1 recites a method for processing broadcasts which includes:

“periodically storing broadcast meta-data corresponding to each of one or more of the received plurality of perspectives of the program, said meta-data comprising at least time and/or offset information for each of the corresponding one or more plurality of perspectives.”

However, Applicant has reviewed the portions of Jain cited by the examiner and submits Jain does not disclose periodically storing time and/or offset information for each of the perspectives of the program as recited in the claims. Rather, Jain discloses storing multi-media data types in a multi-media database and storing video clips. For example, Jain discloses:

“...The system 300 thereby creates a database that synchronizes and associates multiple multi-media data types (such as video, audio, proximity sensor signals, and statistical information) with multi-media events of interest to an end user or client (such as fumbles, interceptions, etc.). These data types are stored ... in a relational object-oriented multi-media database.” (Jain, col. 20, lines 4-13).

“In one preferred embodiment, a highlight reel is defined as a set of “important” or extraordinary plays (i.e., video clips) ...The highlight reel is “published” by the highlight reel publisher 306 and provided as input to the inventive viewer method and apparatus 400 ... in one preferred embodiment of the present invention, the highlight reel is published to the well-known Internet to be subsequently obtained by the viewer process ... the inventive viewer process 400 executes on a computer located at a user/client's home or business.” (Jain, col. 16, lines 10-22).

Additionally, Jain discloses the use of filtering criteria, and not the use of time and offset information, in the following:

“In the example of an American football program, the capture/filter process 304 accepts as input all of the video data streams provided by each video camera positioned proximate a football field. Additional inputs are provided by the setup process 302 and by additional data sources 318.” (Jain, col. 19, lines 9-13).

“In order to automate the creation of the highlight reel, the setup process 302 provides a set of pre-defined filtering criteria as inputs to the capture/filter process 304.” (Jain, col. 16, lines 62-65).

“... the following filtering criteria can be specified: (a) scoring plays (such as touchdowns, field goals, safeties, and two point conversions); (b) erroneous plays (such as interceptions, quarterback sacks and fumbles); (c) extraordinary plays (such as 4.sup.th downs that are not punts, passes and rushes greater than a specified number of yards, (d) key players can be specified (e.g., record all passes that player X caught), and (e) other user-defined plays. In the preferred embodiment, the filtering criteria can be established using Boolean operations based upon a set of primitive filtering constraints.” (Jain, col. 20, lines 21-31).

Jain further discloses the use of system user commands in the following:

"The system user interface 320 also allows a system user to aid the capture/filter process 304 in filtering the raw input and thereby creating a multi-media database. For example, in one preferred embodiment, the system user provides inputs that define event starting and ending points by providing "record" and "stop" control inputs to the system 300. The control inputs also include "delete", "save", and "override" controls." (Jain, col. 19, lines 36-43).

While Jain does disclose the use of a time clock, this time clock is used as filtering criteria (318 in Fig. 4 and Fig. 6), which is described above. Additionally, Fig. 6-A discloses the video streams are input to block 317, and time clock, which is output by block 318, is not dependent upon the video streams. Time clock here refers to time of a football program and not time of each perspective of a program. Jain discloses the time clock in the following:

"Additional inputs are provided by the setup process 302 and by additional data sources 318. An example of an additional data source in the football example is a "Stat. Crew" data stream comprising continuous "play-by-play" statistical data associated with the football game under view. Examples of Stat. Crew data include derived statistical information such as "yards per carry" for a particular player, completions and interceptions for a particular quarterback, etc. Game clock information can be recovered from the Stat. Crew data stream." (Jain, col. 19, lines 12-21).

"In addition, a Stat. Crew computer 318 provides statistical information (such as the time clock) to the CS 304 as described above." (Jain, col. 21, lines 25-27).

For at least all of the above reasons, claim 1 is patentably distinct from the cited art.

Further, Applicant has reviewed the following portions of Jain cited as disclosing these features, but can find no such disclosure. The citations are discussed below.

Col. 25, line 44 – col. 26, line 1+

This disclosure merely describes the display of favorite video events on a display in Fig. 7. A convenient access to the favorite video events for the system user is provided via the display and a possible cursor. This disclosure merely mentions multi-media events are sequenced on a global system timeline, but does not describe any use of meta-data such as time information for each perspective of a program. The multi-media events may be created by filtering criteria or system user commands as described above. However, storage of meta-data for each perspective of a program is not disclosed.

Col. 27, line 33 – col. 28, line 1+

This disclosure merely describes displaying a best view of an object, player or event to the user. The criteria used to find a best view may include the proximity of the camera to the object, the direction of travel of a selected object, manual operation from the user, etc. As discussed above, event starting and ending points may be defined by user inputs (i.e. "record" and "stop" control inputs) or filtering criteria. However, the storage of meta-data for each perspective of a program is not disclosed for either determining a best view or determining an event.

Further, claim 1 recites "automatically determining a second point in time in the second perspective, wherein the second point in time comprises an approximation of the first point in time in the program". Applicant has reviewed the cited reference and submits there is no disclosure of determining an approximation of the first point in time in the program. The cited portions in the Office Action suggested to teach these features instead teach a user interface for selecting different perspectives of a program, VCR controls for altering the display in the video window, and presenting a best view of a particular object, player or event. No disclosure is included that describes determining a second point in time in the second perspective of the program by approximating a first point in time in the first perspective. Since this second point in time of the claimed invention is not taught in the cited reference, the claimed features "presenting the portion of the program from the second perspective to the viewer beginning at the

second point in time" is not disclosed either. For these further reasons, claim 1 is patently distinguishable from the cited art.

In view of the above, Applicant submits claim 1 is patentably distinct from the cited art for at least these additional reasons. As each of independent claims 15, 20, 31 and 45 include features similar to those of claim 1, each of these claims are patentably distinct as well. As each of the dependent claims includes the features of the independent claims on which they depend, each of the dependent claims are patentably distinct for at least the above reasons. Accordingly, all claims are distinguishable from the cited art.

In addition to the above, the dependent claims recite further features neither disclosed nor suggested by the cited art. For example, claim 8 recites the additional features "wherein identifying the first point in time in the first perspective comprises identifying a first offset in a stored file corresponding to the first perspective". The same portion of Jain recited as disclosing the features of amended claim 1 is cited as disclosing these features as well. However, as already discussed earlier, this disclosure of Jain merely describes the display of favorite video events on a display in Fig. 7. Also, it describes multi-media events are sequenced on a global system timeline, but does not describe any use of meta-data such as time information for each perspective of a program. The multi-media events may be created by filtering criteria or system user commands as described above.

Claims 11-12 recite particular features regarding the determining of the second point in time in the second perspective of the program. There is nothing in the entirety of Jain that remotely resembles such features.

Claims 13-14 recite features directed to offsets in relation to MPEG I-frames. Jain simply states that video clips stored in the system database are encoded using a well-known video encoding and compression method. However, Jain discloses nothing concerning the offsets or approximated offset as recited in the claims.

Still further, claim 56 recites features directed to interpolation which is nowhere disclosed by the cited art.

In the Final Office Action, the Examiner states:

"... applicant discusses the prior arts of record and the claimed invention and argues that Jain "...does not describe any use of meta-data such as time information for each perspective of the program..." (see page labeled 14/20+ of applicant's Remarks)."

However, as the several examples of disclosures from Jain show above, neither the database nor the publisher disclose the features recited in the independent claims, which discloses the contents of a meta-data file that can be stored with each recorded perspective. The at least time and/or offset information, such as number of bytes, may be used to locate a same scene among two or more variable-rate streams. Jain, as discussed above, discloses the use of multi-media events, but nowhere discloses the use of meta-data. In the Final Office Action, the Examiner does not provide any examples of the use of meta-data in Jain. Rather, the Examiner merely states:

"In response, Examiner disagrees. Examiner notes applicant's arguments, however, Jain disclose transmitting meta-data with the various perspective of the program, where a user interacts to playback (replay) portion of the program (the first, second, third, etc., perspectives)."

Again, for playback (replay), there are several examples in Jain of the use of events, but nowhere does Jain disclose the use of meta-data, such as "at least time and/or offset information for each of the corresponding one or more plurality of perspectives." The Examiner fails to cite disclosures in Jain that describe these features in either the previous Office Action or the Final Office Action.

In addition, in the Final Office Action, the Examiner states:

"... applicant discusses the prior arts of record and the claimed invention and argues ... that "...there is no disclosure of determining an approximation of the first point in time in the

program..." that "...determining a second point in time in the second perspective of the program by approximating a first point in time..." (see page labeled 14/20+ of applicant's Remarks)."

"... Jain further inherently teaches the claim limitations "...determining an approximation of the first point in time in the program ... determining a second point in time in the second perspective of the program by approximating a first point in time..." since Jain discloses that, the switching is seamless and dynamic and that different viewing perspectives are achieved, by the system automatically switching control to the camera having the best perspective (figs. 7-9, col.25, lines 44-col.26, line 67, col.27, line 1-col.28, line 48 and col.30, line 17+)."

First, as there is no meta-data disclosed by Jain as discussed above, there is no "first point in time" and "second point in time" in Jain as recited by the independent claims. Second, the following disclosures listed above do not recite the features either. It is also noted that no specific disclosure is provided, but at times, an entire column. Also, each of these disclosures was addressed in the previous Response. Reasons for why they do not disclose the features of the claimed invention were already given. Namely, the disclosures teach the use of a multi-media database and teach the sequencing of multi-media events on a global timeline, rather than disclosing "determining a second point in time in the second perspective of the program by approximating a first point in time". The Examiner merely repeated previously given disclosures without comment on the disclosed multi-media events and sequencing on a global timeline. The Examiner states in the Final Office Action:

"Jain further inherently teaches the claim limitations "...determining an approximation of the first point in time in the program ... determining a second point in time in the second perspective of the program by approximating a first point in time..." since Jain discloses that, the switching is seamless and dynamic and that different viewing perspectives are achieved, by the system automatically switching control to the camera having the best perspective ..." (emphasis added).

However, Applicant disagrees. The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993); *In re Oelrich*, 666 F.2d 578, 581-82, 212 USPQ 323, 326 (CCPA 1981). "To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.' " *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999). However, several times Jain discloses the use of global sequencing of multi-media events. Therefore, switching from a first perspective to a second perspective, such as a camera having a best perspective, is decided by the capture/filter process 304. This process 304 filters raw input in order to create a multi-media database. Filtering criteria are disclosed in Jain, col. 20 lines 21-31, and do not include meta-data such as time and/or offset information as recited in the claims. This correlates with the lack of support in Jain for features disclosed in claim 56, which become more specific than the independent claims, regarding interpolation. Accordingly, the above features are not inherent as suggested.

In light of the foregoing remarks, Applicants submit the application in condition for allowance, and notice to that effect is respectfully requested. If any extension of time (under 37 C.F.R. § 1.136) is necessary to prevent the above referenced application from becoming abandoned, Applicant hereby petitions for such an extension. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert & Goetzel PC Deposit Account No. 501505/5266-05200/RDR.

Respectfully submitted,

/ Rory D. Rankin /

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